THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.9964 OF 2006

ORDER:

The 1st respondent herein - Union of India, Defence Metallurgical Research Laboratories (DMRL) issued a tender notice for sale of Stainless Steel and Metal Scrap. In response to the same, the petitioner herein submitted its quotation for item Nos.1, 2, 3, 4, 6 & 7 along with the required EMD. Having accepted petitioner's quotation, the 1st respondent issued a sale order dated 14.11.2005, under which the petitioner was informed that the Director of DMRL had confirmed the acceptance of petitioner's offer for items 6 & 7 i.e., 25 M.Tons of Stainless Steel Scrap and 50 M.Tons of Metal Scrap, and called upon the petitioner to deposit a sum of Rs.22.00 lakhs towards the value of the said items. Pursuant thereto, the petitioner deposited the said amounts by way of a DD on 12.12.2005. However, in spite of repeated requests made by the petitioner, the 1st respondent failed to issue orders for lifting the material. On the other hand, the 1st respondent by letter dated 22.12.2005 informed the petitioner that the sale dated 14.11.2005 is cancelled due to administrative reasons and returned the demand draft sent by the petitioner. It is claimed that the petitioner had protested the unilateral action of the 1st respondent by making several representations both oral and written and also requesting issuance of delivery order. While so, the 1st respondent by letter dated 19.4.2006 informed the petitioner that a Committee has been appointed to enquire into the issue relating to sale of metal scrap and appropriate decision will be taken after the Committee submits its report.

Aggrieved by the said action, this writ petition is filed seeking a declaration that the action of the 1st respondent in not issuing the delivery order to the petitioner pursuant to the sale order dated 14.11.2005 as well as the subsequent proceedings of cancellation of

the sale order dated 22.12.2005 as arbitrary and illegal.

On behalf of the 1st respondent, a counter-affidavit has been filed stating that certain complaints were received against the petitioner-Firm and the Stores Officials of DMRL and having regard to the same, the sale order in favour of the petitioner was cancelled. It is stated that the cancellation was made only due to administrative reasons and the same cannot be held to be arbitrary or illegal.

One M/s Ruby & Company got itself impleaded as the 2nd respondent to the writ petition making similar allegations against the 1st respondent - Union of India in floating tenders by M/s MSTC, Visakhapatnam, in respect of which, the petitioner was the highest bidder in the limited tenders invited earlier.

I have heard the learned counsel for both the parties and perused the material on record.

The terms and conditions annexed to the sale order dated 14.11.2005 show that the Director, DMRL at his discretion, may amend or cancel the sale order with or without assigning any reason at any time during or beyond the validity date.

The record placed before this Court shows that an anonymous letter was received by the 1st respondent alleging that a syndicate was formed consisting of the writ petitioner, some others along with Stores Officer, and some other employees of DRML, so as to dispose of the scrap at cheaper rate. It was also alleged that the scrap, which was put to sale in the said tender was the subject matter of lot No.1 of Tender No.29 issued by MSTC and that the same material is being sold out at much lesser rate. Pursuant thereto, Vigilance Department of the 1st respondent was directed to investigate into the facts, to stop the disposal of the tenders and to make it public through MSTC, which is an authorized channel or by direct advertising as open tenders so that Government gets maximum revenue by participation of genuine scrap dealers and avoiding mal-practices through corrupt officials. It also appears that a Board of Officers was constituted by the Director of

DMRL to investigate in detail in the disposal of metal scrap in DMRL. The said Board of Officers submitted a preliminary enquiry report dated 6.4.2006. Since the said report did not bring out a complete picture, the first respondent thought it fit to float fresh tenders by inviting open tenders. In the circumstances, it cannot be said that cancellation of the sale order issued in favour of the petitioner was not on valid grounds.

The law is well-settled that the successful bidder cannot claim any right for grant of contract and it is always open to the tender inviting authority to cancel the tenders. However, such cancellation shall be for valid reasons and in conformity with the rights guaranteed under Article 14 of the Constitution of India.

In the case on hand, as noted above, the material placed on record shows that the 1st respondent had stopped the tender process due to certain alleged irregularities in tender process and finally thought it fit to invite fresh tenders by adopting open tender method. The said procedure adopted by the 1st respondent cannot be said to be either arbitrary or illegal.

From the counter-affidavit filed on behalf of the 1st respondent it also appears that the 1st respondent issued directions to MSTC for floating fresh tenders by order dated 3.5.2006. In the circumstances, it is left open to the 1st respondent to process and finalise the tenders following due process of law. It is also open to the petitioner to participate in response to the tenders that may be floated by MSTC, in which event, the same shall be considered in accordance with law along.

So far as the 2nd respondent is concerned, I am of the opinion that the dispute raised by the 2nd respondent is in no way connected to the issue involved in the main writ petition. The tenders floated by MSTC and the 1st respondent herein are different and, therefore, the grievance of the 2nd respondent deserves no consideration in this writ petition.

The writ petition is accordingly disposed of. No costs.

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(G. ROHINI, J.)

29th November, 2006.

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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.9964 OF 2006

29th November, 2006.

Between: Sreeenidhi Electro Mechanics, represented by its Proprietor – M. Upernder Reddy. .. Petitioner.

And

Union of India, represented by its Director, Defence Metallurgical Research Laboratories (DMRL), (M.O.D.) Kanchanbag, Hyderabad and another. .. respondents.